

August 31, 2012

Barbara S. Gaal  
Chief Deputy Counsel  
CA Law Revision Commission  
4000 Middlefield Road, Room D-2  
Palo Alto, CA 94303-4739

Re: Your Request for Advice  
**Our File No. I 12-115**

Dear Ms. Gaal:

This letter responds to your request for advice regarding the conflicts of interest provisions of the Political Reform Act (the “Act”).<sup>1</sup> The Fair Political Practices Commission (the “Commission”) does not advise on any conduct that may have already taken place. (See Regulation 18329(b)(8)(A) and (c)(4)(A).) In addition, this letter is based on the facts presented. The Commission does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

Because your question is general in nature, we are treating your request as one for informal assistance.<sup>2</sup>

### QUESTION

Does your daughter’s receipt of tickets to an auction qualify as a gift to you under the Act?

### CONCLUSION

No. Your daughter received tickets to the auction based on her independent relationship with the source of the gift. It is therefore not a gift to you.

---

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

## FACTS

You are the Chief Deputy Counsel for the California Law Revision Commission (the “LRC”). The LRC is studying the Uniform Adult Guardianship Protective Proceedings Jurisdiction Act (the “UAGPPJA”) to determine whether it should be enacted in California. Among the UAGPPJA’s supporters (and lobbyists) is the Alzheimer’s Association. As Chief Deputy Counsel, you prepare staff memoranda for the Commission to consider at public meetings. You also participate in discussions and provide assistance regarding upcoming legislation. You are in the highest disclosure category in your agency’s conflict of interest code.

When she was in high school, your daughter volunteered at a Menlo Park nursing home where she was responsible for the “Memories in the Making” program. This was a weekly painting program for Alzheimer’s patients. As a result of her involvement with this program, The Alzheimer’s Association invited your daughter to speak at an auction where the paintings would be raffled off and the proceeds given to the Northern California and Northern Nevada Chapters of the Alzheimer’s Association, a non-profit corporation. As a speaker, your daughter received two tickets to the event. She attended with her grandmother.

## ANALYSIS

Section 87100 prohibits any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. A public official has a "financial interest" in a governmental decision, within the meaning of the Act, if it is reasonably foreseeable that the governmental decision will have a material financial effect on one or more of the public official's economic interests. (Section 87103; Regulation 18700(a).) The Commission has adopted an eight-step standard analysis for deciding whether an individual has a disqualifying conflict of interest in a given governmental decision, which we apply to your question. (Regulation 18700(b)(1)-(8).)

Because you have stated that you are a designated employee and a public official by virtue of your position as Chief Deputy Director at the California Law Revision Commission and also that you intend to participate in the review and analysis of the UAGPPJA, we do not address these steps in the conflict-of-interest analysis.<sup>3</sup>

Step Three inquires whether you have an economic interest in the governmental decision. The only potential economic interest you described involves tickets that your daughter received from the Alzheimer’s Association. Regulation 18943, pertaining to gifts received by a member, states that a “family member” includes a dependent child, as your daughter was at the time of the gift. Gifts to your daughter are therefore considered gifts to you in certain circumstances.

Regulation 18943(c)(1) says that a gift to a family member is a gift to the public official if “there is no established working, social, or similar relationship between the donor and the

---

<sup>3</sup> Please note that, while you have not described a particular decision in which you will participate, we assume without deciding that your position will require participation in governmental decisions.

family member that would suggest an association between the donor and the family member suitable or appropriate for making the type of payment provided to the family member.” In this case, however, the exact opposite scenario exists. Because your daughter received the tickets by virtue of her volunteer service to the nursing home and in appreciation of her speaking at the auction that the Alzheimer’s, she has an established “independent relationship” that led to her receiving the tickets.

Because there is no gift to you, and you have mentioned no other economic interest, you do not have a conflict of interest in the governmental decisions you mentioned and we do not reach the remaining steps in the analysis.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini  
General Counsel

By: Heather M. Rowan  
Counsel, Legal Division

HMR:jgl